IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.5433 OF 2007
IN
FIRST APPEAL ST.NO.3045 OF 2007

Mr.Manohar Shankar Parkar ...Applicant

vs.

The Special Land Acquisition Officer & Anr. ...Respondents

Mr.M.S.Topkar for the Applicant
Mr.K.K.Tated, A.G.P. for State

CORAM: A.S.OKA, J.
DATE : NOVEMBER 27,2007.

P.C.:

1. Heard learned Advocate for the Applicant and the learned A.G.P. for the first Respondent. The Applicant has preferred this First Appeal for challenging the Judgment and Award dated 10th October 2006 passed by the learned Civil Judge (S.D.), Ratnagiri by which a reference under section 18 of the Land Acquisition Act,1894 made at the instance of the Applicant has been dismissed. Initially, the reference was allowed by the trial court. Thereafter, the Judgment and Award was set aside by this court and an order of remand was passed. The impugned Judgment and Award has been passed pursuant to the order of remand.

2. In the meanwhile, the Applicant had received the compensation amount under the earlier Judgment and Award dated 29th November 2005 which was set aside by this Court. An application was made by the Respondents for restitution under

section 144 of the Code of Civil Procedure,1908. The prayer in this application is for staying the proceedings of the application for restitution.

3. The Award passed by the trial court on 29th November 2005 has been set aside by this Court. In view of the settled legal position, the proceedings for restitution cannot be stayed as the order passed by this court setting aside the Award dated 29th November 2005 has attained finality.

4. However, considering the peculiar facts of the case, sufficient time deserves to be granted to the applicant to bring back the amount which he has received under the Award which has been set aside. Considering the facts and circumstances of the case, time of six months deserves to be granted to the Applicant. In the meanwhile, though the proceedings for restitution will not go on, order, if any of attachment is already passed, the same will continue to operate till further orders. If the entire amount is deposited within the stipulated time, the Applicant can apply to the trial court for vacating the said order.

5. Hence, Civil Application is disposed of by passing the following order :

i) Application is rejected.

ii) Time of six months is granted to the Applicant to re-deposit the amount received by him by way of compensation under the earlier Award which has been set aside. For a period of six months from today, the proceedings of the application for restitution filed by the Respondents will remained stayed. If any order of attachment is passed in the said proceedings the same will continue to operate. If the applicant fails to bring back the amount within stipulated period, the trial court will proceed to dispose of the application for restitution in accordance with law.

iii) Parties to act upon an authenticated copy of this order.

JUDGE